

# **EXHIBIT C**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Alex G. Tse, Magistrate Judge

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KENNETH W. MATTSON,

Defendant.

No. CR 25-00126-CRB

San Francisco, California  
Wednesday, May 28, 2025

TRANSCRIPT OF PROCEEDINGS OF THE OFFICIAL ELECTRONIC SOUND  
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1 MR. FRENTZEN: So -- yeah. So, Mattson on May  
2 22nd, 2024, did, in fact, go to his lawyer's office, and  
3 that office, we understand that the state of the laptop was  
4 preserved. The timing of the supposed or alleged deletions  
5 that the Government has would be after Mr. Mattson went  
6 there and the -- and folks were working on the laptop.

7 I hope the Court can appreciate that at this juncture,  
8 where we are now, because the Government has alleged that  
9 this is an act of obstruction of justice, which it will --  
10 will not bear out, and I will get into some of the facts,  
11 but if I talk a little circumspect, hopefully the Court  
12 understands that at this point --

13 THE COURT: Um-hmm.

14 MR. FRENTZEN: -- the -- the Government has  
15 alleged obstruction of justice. There are lawyers, not the  
16 lawyers here today, involved in that process. They have  
17 lawyers now. There are issues around attorney-client  
18 privilege. There are issues around work product privilege,  
19 and there are issues around the Fifth Amendment privilege  
20 that, unfortunately, are wrapped up in what the Government,  
21 as I'll get into in a minute, without substantial evidence  
22 or sufficient evidence as alleged as an obstruction of  
23 justice.

24 THE COURT: Okay.

25 MR. FRENTZEN: So, just --

1 THE COURT: I understand.

2 MR. FRENTZEN: -- if the Court has further  
3 questions, just please appreciate --

4 THE COURT: Understand.

5 MR. FRENTZEN: -- what I'm dealing with.

6 THE COURT: You will tell me you can't answer it  
7 or --

8 (Simultaneous speaking.)

9 THE COURT: -- that you'd rather not answer it,  
10 and I will respect that.

11 MR. FRENTZEN: I will tell you. If we have to,  
12 I'll --

13 THE COURT: Right.

14 MR. FRENTZEN: Maybe I'll answer it, but I would  
15 need to consider it.

16 THE COURT: Sure.

17 MR. FRENTZEN: So, on May 22nd, 2024, Mr. Mattson  
18 did deliver the laptop. The state of the laptop we  
19 understand, but counsel in the courtroom today do not have  
20 the -- what was copied, but it was copied. My understanding  
21 is that the files were, in fact, preserved. I under --

22 THE COURT: So -- so --

23 MR. FRENTZEN: Yeah.

24 THE COURT: -- this is a question that I have.  
25 The Government's proffer to me last week and today is that

1 if, in fact, there was a duplicate in it of the hard drive  
2 of the laptop, they've not seen it. All they have before  
3 them was that there was a deletion of files.

4 So, is there anything you can tell me about that, in  
5 fact, it was imaged?

6 MR. FRENTZEN: Yes.

7 THE COURT: That -- that exists somewhere?

8 MR. FRENTZEN: Yes, your Honor.

9 THE COURT: Okay.

10 MR. FRENTZEN: It was imaged. That exists.

11 THE COURT: Okay.

12 MR. FRENTZEN: As I noted a minute -- a moment  
13 ago, where we are now -- and, again, neither I nor my co-  
14 counsel here in court, Ms. Pollock, have -- have the image,  
15 but we also understand -- or the copy -- that it implicates  
16 these various privileges that we've talked about.

17 THE COURT: Sure.

18 MR. FRENTZEN: Had we had a conversation with  
19 Government counsel about this sometime ago, perhaps we would  
20 have resolved that. Where we are now is where we are now.  
21 And -- and they have the burden of proving this case.

22 What I can tell the Court is -- and I got -- we finally  
23 got access to the discovery related to this issue on Monday  
24 evening. And, so, I've had sometime to look at this and to  
25 consult.

1 The RCFL report that the Government is relying on for  
2 these alleged deletions makes reference to the recycle bin.  
3 The recycle bin, as I understand it, indicates files that  
4 were removed from the system. Let's put it that way.

5 THE COURT: Um-hmm.

6 MR. FRENTZEN: And they're in a long list, and  
7 RCFL looked at it according to the report and found all  
8 these files in a recycle bin. Significantly, according to  
9 the report and multiple references, the file path is a E  
10 file, E as in the letter E. My understanding is that is an  
11 external -- for this particular device, would be an external  
12 drive. In other words, what is shown as being allegedly  
13 deleted was not removed from the laptop in the instances  
14 reflected that I see in the RCFL report. They were removed  
15 from an external device. In other words, what was copied to  
16 an external device on May 22nd, 2024 at the location they've  
17 indicated, which is their attorneys' offices --

18 THE COURT: Um-hmm.

19 MR. FRENTZEN: -- things were removed from an  
20 external drive, not necessarily from the laptop, though  
21 utilizing the laptop. And I'll just -- so -- so, that would  
22 be consistent with somebody making a copy of the laptop and  
23 then for whatever reason, perhaps, removing items from the  
24 external drive, this E drive.

25 To the extent that the recycle bin shows all these

1 deleted files -- let me just as a brief aside, if anyone  
2 really wanted to hide files, you wouldn't leave the  
3 recycling bin. You'd hit one button that says "clear  
4 recycling bin", and you would clear that out, and then  
5 there'd be no indication of that. And, so, there's really  
6 not a sign of an effort to obscure here.

7 And, by the way, everything we're talking about is not  
8 Mr. Mattson, and the Government can't show it was Mr.  
9 Mattson. It's other individuals.

10 I went back to look, in fact, at whether or not items  
11 they say were deleted apparently from this external drive,  
12 were deleted from the computer itself, and I've got -- and  
13 I'll just hand up to the Court, but I've got copies of  
14 something that the Government in its brief, the one they  
15 filed the night that they arrested Mr. Mattson and before we  
16 came here the first time, your Honor, the Government listed  
17 filenames that it claims were deleted. I looked at the --

18 THE COURT: And let's be precise here. The  
19 position is -- you're taking the position nothing was  
20 deleted from the laptop. It was -- you -- the laptop was  
21 used in the imaging, but nothing was deleted from the  
22 laptop. It was deleted from an external drive, and that  
23 external drive was seized from Mr. Mattson I presume?

24 MR. FRENTZEN: No, your Honor. The --

25 THE COURT: Okay.



1 MR. FRENTZEN: -- external drive we believe was --  
2 here's what I'm saying, your Honor, just --

3 THE COURT: Yes.

4 MR. FRENTZEN: -- because the -- your Honor's  
5 putting in a little bit of absolutes. What I'm saying is --

6 THE COURT: I understand. I understand.

7 MR. FRENTZEN: -- given -- getting stuff Monday  
8 night, getting ready for the hearing today, this is what we  
9 have been able to locate so far, and I'm just -- this is  
10 just an example, but this is what the Government produced to  
11 us. What I handed up is apparently what they got off of the  
12 laptop in discovery -- in its discovery production. And if  
13 the Court -- this is a screenshot of, you know, what they  
14 sent us digitally. But if the Court takes a look at the  
15 first PDF on the left -- lefthand corner, upper lefthand  
16 corner of what I handed up, that exactly matches the  
17 filename of the first file that we could identify because  
18 they redacted.

19 So, in their brief on whatever day that was, last  
20 Thursday or Friday, I think Thursday, they listed files that  
21 they claim were deleted. This is -- I just looked -- they  
22 redacted names from them. So, I looked for one that didn't  
23 have redactions.

24 THE COURT: Um-hmm.

25 MR. FRENTZEN: It's hard to pony up what they say

1 was deleted with what we have gotten from them because they  
2 put them in bullet points, and, so, it's got to be phrased  
3 exactly accurately. But I looked at the first. We looked  
4 at the first, and this first file they listed without  
5 redactions as items that were deleted from the laptop is  
6 2009 Divvy Divvy Tree LP Form 1065-only.pdf. That's the  
7 exact same file that apparently is here on the laptop.

8 THE COURT: Um-hmm.

9 MR. FRENTZEN: I don't have what was copied. What  
10 I can tell the Court is that I've been informed that the --  
11 that the files that the Government says --

12 THE COURT: Do you believe the Government has --

13 MR. FRENTZEN: I believe they have --

14 (Simultaneous speaking.)

15 MR. FRENTZEN: I don't know what they have. I  
16 don't know what they copied. I don't know how their copying  
17 went. There's another important point here, just so the  
18 Court understands. In the RCFL report, it indicates that  
19 certain items the examiner could not locate in part because  
20 if the computer's running, things can be I guess lost or  
21 deleted, and apparently, though they seized the device in --  
22 on May 22nd of 2024, the -- the examiner did not examine it  
23 until January, February of 2025, and in the interim,  
24 according to the report, the device was left plugged in and  
25 powered on or powered on, I assume it would have had to have

1 been plugged in.

2 And, so, according to the examiner, things could have  
3 been lost. So, I don't know what they do or don't have  
4 exactly, but I looked at what they gave us to see, and the  
5 exact same filename that they say is the first file, I  
6 looked at the first one -- we got it, you know, recently --

7 THE COURT: Right.

8 MR. FRENTZEN: -- and it appears to still be on  
9 the laptop in their possession. And -- and, so, I question  
10 whether these deletions ever occurred on the laptop versus  
11 utilizing the laptop to an external device.

12 The other part of this that I'll raise, your Honor, is  
13 that, as I've said, it -- it has been represented to me that  
14 the items have been preserved. Let's put it that way, and  
15 so, you know, this is not Mr. Mattson deleting files off his  
16 laptop. He would have had to have gone to his lawyer's  
17 office, decided to do it at the lawyer's office and, oh, by  
18 the way, plug in an external device and then delete off of  
19 an external device. It -- it makes absolutely no sense,  
20 your Honor. This is not an obstruction case. This is not a  
21 charge that's ever going to get to trial I don't believe.  
22 Again, this is preliminary. And, in any event, the  
23 evidence, my understanding is -- again, I have not looked at  
24 it. My understanding is the evidence is preserved. They --  
25 they've said, Well, give it to us. I said, There's

1 privileges. You know, we're going to have to work through  
2 this --

3 THE COURT: Right.

4 MR. FRENTZEN: -- and -- but this is your burden.  
5 You brought this case. You decided when to bring this case,  
6 and this is just I'm working on 24 hours of my investigation  
7 here, our investigation here versus however long they had to  
8 do all of this, and this is -- this is not an obstruction  
9 charge, your Honor. And, so, if there's any other specifics  
10 that the Court has concerns about, I'm happy to address  
11 them, but that's -- I think that's the state of the --

12 THE COURT: Okay.

13 MR. FRENTZEN: -- alleged obstruction from a  
14 laptop.

15 THE COURT: Okay. All right. That's very  
16 helpful. Thank you.

17 MR. BHAGAT: Your Honor, may I respond briefly?

18 THE COURT: Yeah, but I don't know if I -- I need  
19 a -- we're not going to decide the issue of that charge --

20 MR. BHAGAT: Yes.

21 THE COURT: -- right now. I needed enough to  
22 figure out if the proper still -- proffer that was provided  
23 last week still holds, and I'll give you an opportunity to  
24 respond, but I don't -- I don't necessarily need a point-by-  
25 point recitation. I did hear more details today that I did

1 not appreciate, for example, the external drive. Again, I  
2 don't know what it is, and maybe I should just tell you what  
3 I'm thinking, and that is that the proffer that was given to  
4 me earlier was obstruction, and the Defense has been very  
5 clear they don't believe that's a real charge, but that's up  
6 to you to fight later on.

7 But given the other instances where the Government has  
8 raised the covering up cameras, the -- the money in the car,  
9 while I will say that isn't the strongest evidence for me, I  
10 feel like the deletion -- the alleged deletion of files is a  
11 much stronger reason to -- to give you the detention  
12 hearing, I don't think I'm going to reverse myself and say  
13 that there isn't -- the Government hasn't met its burden to  
14 get a detention hearing today.

15 With that said, go ahead, Mr. Bhagat.

16 MR. BHAGAT: Yes, your Honor. So, three quick  
17 points. I -- I can't speak to the -- the external drive or  
18 what the -- what drive the files were deleted off of. I  
19 know that the forensic report says that the files were  
20 actually emptied from the recycle bin. It's not just that  
21 Mr. Mattson or someone placed it in the recycle bin. The  
22 report indicates that they were actually emptied, deleted  
23 from the recycle bin. So, that's number one.

24 MR. FRENTZEN: Your Honor, I'm sorry. I don't  
25 mean to interrupt, but can I just inquire where in the

1 report that is? Because that's contrary to my reading of  
2 the report.

3 MR. BHAGAT: I -- I have --

4 MR. FRENTZEN: I have it right in front of me to  
5 look at.

6 MR. BHAGAT: I don't have the report in front of  
7 me. That's my understanding of --

8 THE COURT: Well he has the report.

9 MR. BHAGAT: -- the report.

10 THE COURT: Mr. Frentzen has the report. If you  
11 -- if you have -- again, I'm hoping not to spend a lot of  
12 time. I just needed to be satisfied that what I was reading  
13 in the papers this morning, that you were learning much more  
14 detail than what was delivered to the Court. I wanted to  
15 make sure that I could still support my ruling that the  
16 Government satisfied its burden on the proffer to get a  
17 detention hearing today.

18 MR. FRENTZEN: And, again, your Honor, my  
19 understanding is the recycle bin shows other items having  
20 been deleted, but, as I --

21 THE COURT: But the recycle bin is on the laptop.

22 MR. FRENTZEN: Correct.

23 THE COURT: Correct? That's --

24 MR. FRENTZEN: Yes.

25 THE COURT: -- undisputed. And files were there

1 at some point and were no longer there on the laptop.  
2 Whether or not they were removed from a hard drive, external  
3 drive, at some point they were in the laptop --

4 MR. FRENTZEN: My understanding --

5 THE COURT: -- in some capacity.

6 MR. FRENTZEN: My understanding, your Honor, from  
7 handing that up is --

8 THE COURT: Yes.

9 MR. FRENTZEN: -- that they may well still be on  
10 the laptop, though deleted from an external drive.

11 THE COURT: Okay.

12 MR. BHAGAT: So, your Honor, I'm just looking at  
13 page four that says:

14 "Upon removal from the recycle bin,  
15 files and folders which are deleted but  
16 still may be recoverable."

17 And then the examiner talks about his attempts to  
18 recover the files, which is sort of what I want to get into  
19 next.

20 MR. FRENTZEN: Your Honor, that's a generic  
21 reference to how the recycling bin works in general. It's  
22 not saying that's what happened in this case. What the  
23 examiner did was actually look at the recycle bin --

24 THE COURT: Um-hmm.

25 MR. FRENTZEN: -- and then makes a point that

1 items can be retrieved from the recycling bin but not if  
2 they were on an external device and the external device is  
3 no longer attached, and he says, I looked for Path E, and  
4 it's no longer there, and he then says you can also lose  
5 things from the recycling bin because it's been on, the  
6 computer -- some people have auto set or whatever. They  
7 plugged this thing in in May of '24. They didn't examine it  
8 until January, February of 2025. And, so, that's the  
9 examiner's description of I see things deleted in the  
10 recycling bin, but often you can't retrieve that and in part  
11 because if the computer's been on for 10 months, which is  
12 how long it's been on.

13 So, I don't know why any of that would be in the report  
14 but for what the examiner's looking at is what's in the  
15 recycling bin and is still showing up in the recycling bin.

16 MR. BHAGAT: So, your Honor, the examiner was able  
17 to identify a particular time period and a particular date  
18 that the files were actually deleted from the recycle bin.  
19 The stuff that's in the report about not being able to  
20 recover later is because as part of their examination, as  
21 part of their work in this case, the examiners actually  
22 tried to use forensic tools to recover the files that were  
23 deleted, and there's various mechanisms they can do that  
24 with. One of them is called carving. And the -- and the  
25 stuff in the report about the -- the laptop was left on for



1 a little bit, that helps to explain why it was difficult for  
2 the examiner to recover the files that were deleted.

3 Mr. Frentzen just handed you a screenshot of these  
4 PDFs. These were the sort of remnants of files that the  
5 examiner was able to recover through his work. This is all  
6 he could get.

7 Your Honor, I would submit to you if you click on those  
8 -- if you try to click on those files and open them, you  
9 will not be able to open them because the examiner was not  
10 able to recover through their forensic processes the files  
11 that were actually in existence at the time of deletion.

12 THE COURT: And the --

13 MR. FRENTZEN: That's --

14 THE COURT: -- Government's position that because  
15 your examiner was unable to open them, that they have been  
16 deleted?

17 MR. BHAGAT: I think that they have been deleted  
18 in the -- as the -- they have been deleted within the  
19 meaning of 1519.

20 THE COURT: Understood.

21 MR. BHAGAT: Which is the charge.

22 THE COURT: Let me -- let me ask this question  
23 too. Do they actually have to be deleted to -- to prove  
24 obstruction?

25 MR. BHAGAT: No, your Honor.

1 THE COURT: All right.

2 MR. BHAGAT: Alteration is enough.

3 THE COURT: Right. Right. Okay. I think I'm  
4 satisfied with -- with where I want to go today. Thank you  
5 for giving me the information about the laptop.

6 And now I think you want to call the victims.

7 MR. BHAGAT: Yes, your Honor.

8 THE COURT: Okay.

9 MR. BHAGAT: We'd note that there are more than 50  
10 victims present in the courtroom. There were over 75 --  
11 approximately 75 victim statements submitted, which the  
12 Court has now in its possession, some of which were redacted  
13 on the docket, some of which were filed under seal. There  
14 are nine victims who wish to speak. What we would propose  
15 is begin calling the victims up and identifying them by  
16 their first name.

17 THE COURT: Okay. Great. And what -- and what do  
18 you anticipate that they're going to do? Are they going to  
19 read their statement into the record or are they just going  
20 to --

21 MR. BHAGAT: I think it depends on the -- on the  
22 victims. The Crime Victims Rights Act is fairly broad in  
23 allowing victims an opportunity to convey to the Court the  
24 impact of the case. I would note that the issue today is  
25 detention and whether there's a risk of flight or danger to